

AMENDED IN ASSEMBLY JUNE 1, 2010

AMENDED IN SENATE MAY 20, 2009

**SENATE BILL**

**No. 127**

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**Introduced by Senator Calderon**

February 5, 2009

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~~An act to amend Sections 2924, 2924b, 2924c, and 2924f of, and to add Sections 2924.9 and 2924.10 to, the Civil Code, relating to mortgages. An act to amend Section 104113 of the Health and Safety Code, relating to automatic external defibrillators.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 127, as amended, Calderon. ~~Mortgages. Automatic external defibrillators: health studios.~~

*Under existing law, commencing January 1, 2008, and continuing until July 1, 2012, a health studio, as defined, is required to acquire an automatic external defibrillator and to meet specified training and maintenance standards relating to that device. Under existing law, when a health studio employee uses an automatic external defibrillator, as specified, the owners, managers, employees, or otherwise responsible authorities of the facility shall not be liable for civil damages resulting from an act or omission in the course of rendering that emergency care or treatment, as required.*

*This bill would provide that a health studio that allows its members access to its facilities during operating hours when employees trained in the use of automatic external defibrillators are not on the facility premises, waives the above exemption from liability for civil damages and the affirmative defense of primary assumption of the risk, whether express or implied, as to a claim arising out of the absence of trained staff.*

Existing law governs the transfer of an interest in property in the case of a default on a mortgage. Existing law requires a mortgagee, trustee, or other person authorized to record the notice of default or notice of sale to make specified disclosures after recording the notice of default or notice of sale and prior to the date of sale. A notice of sale must be recorded with the county recorder at least 14 days prior to the date of sale.

Existing law exempts a trustee from liability for any good faith error resulting from reliance on information provided in good faith by the beneficiary in performing these and other related acts regarding the nature and the amount of the default, as specified.

This bill would revise that provision by deleting the qualification that the information be in regards to the nature and amount of the default, as specified, and would additionally exempt the trustee from liability for any good faith clerical error the trustee makes in performing acts required pursuant to the provisions described above and other related provisions governing mortgage defaults with respect to recording the notice of sale.

This bill would require a mortgagee, trustee, or other person authorized to record a notice of sale or notice of default to make specified disclosures either on an Internet Web site or in a telephone recording that is accessible 24 hours a day, 7 days a week and make a related change. This bill would also extend the time during which the notice of sale must be recorded from 14 to 20 days.

The bill would require a beneficiary to provide an opening bid to a trustee at least one week prior to the first scheduled sale date. The bill would authorize the beneficiary to update the opening bid prior to the sale, as specified, and would authorize a beneficiary who provides an opening bid to accept a higher bid.

The bill would also require a trustee to provide a list of liens and encumbrances upon a trust property and to charge a reasonable fee for the information, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 104113 of the Health and Safety Code is
- 2     amended to read:

1 104113. (a) (1) Commencing July 1, 2007, every health studio,  
2 as defined in subdivision ~~(g)~~ (h), shall acquire an automatic external  
3 defibrillator. The requirement to acquire an automatic external  
4 defibrillator pursuant to this subdivision shall terminate on July  
5 1, 2012.

6 (2) Commencing July 1, 2007, and until July 1, 2012, every  
7 health studio, as defined in subdivision ~~(g)~~ (h), shall maintain, and  
8 train personnel in the use of, ~~any~~ *an* automatic external defibrillator  
9 acquired pursuant to paragraph (1).

10 (3) On or after July 1, 2012, a health studio that elects to  
11 continue the installation of an automatic external defibrillator that  
12 was acquired pursuant to paragraph (1) shall maintain and train  
13 personnel in the use of an automatic external defibrillator pursuant  
14 to this section, and shall not be liable for civil damages resulting  
15 from the use, attempted use, or nonuse of an automatic external  
16 defibrillator as provided by this section.

17 (b) An employee of a health studio who renders emergency care  
18 or treatment is not liable for civil damages resulting from the use,  
19 attempted use, or nonuse of an automatic external defibrillator,  
20 except as provided in subdivision (f).

21 (c) When an employee uses, does not use, or attempts to use;  
22 an automatic external defibrillator consistent with the requirements  
23 of this section to render emergency care or treatment, the members  
24 of the board of directors of the facility shall not be liable for civil  
25 damages resulting from ~~any~~ *an* act or omission in rendering the  
26 emergency care or treatment, including the use or nonuse of an  
27 automatic external defibrillator, except as provided in subdivision  
28 (f).

29 (d) Except as provided in ~~subdivision (f)~~ *subdivisions (f) and*  
30 *(g)*, when an employee of a health studio renders emergency care  
31 or treatment using an automatic external defibrillator, the owners,  
32 managers, employees, or otherwise responsible authorities of the  
33 facility shall not be liable for civil damages resulting from ~~any~~ *an*  
34 act or omission in the course of rendering that emergency care or  
35 treatment, provided that the facility fully complies with subdivision  
36 (e).

37 (e) Notwithstanding Section 1797.196, in order to ensure public  
38 safety, a health studio shall do all of the following:

39 (1) Comply with all regulations governing the placement of an  
40 automatic external defibrillator.

1 (2) Ensure all of the following:

2 (A) The automatic external defibrillator is maintained and  
3 regularly tested according to the operation and maintenance  
4 guidelines set forth by the manufacturer, the American Heart  
5 Association, or the American Red Cross, and according to any  
6 applicable rules and regulations set forth by the governmental  
7 authority under the federal Food and Drug Administration and any  
8 other applicable state and federal authority.

9 (B) The automatic external defibrillator is checked for readiness  
10 after each use and at least once every 30 days if the automatic  
11 external defibrillator has not been used in the preceding 30 days.  
12 ~~Records of these checks shall be maintained. The health studio~~  
13 *shall maintain records of these checks.*

14 (C) ~~Any~~ A person who renders emergency care or treatment ~~on~~  
15 to a person in cardiac arrest by using an automatic external  
16 defibrillator activates the emergency medical services system as  
17 soon as possible, and reports ~~any~~ *the* use of the automatic external  
18 defibrillator to the licensed physician and to the local EMS agency.

19 (D) For every automatic external defibrillator unit acquired, up  
20 to five units, no less than one employee per automatic external  
21 defibrillator unit shall complete a training course in  
22 cardiopulmonary resuscitation and automatic external defibrillator  
23 use that complies with the regulations adopted by the Emergency  
24 Medical Services Authority and the standards of the American  
25 Heart Association or the American Red Cross. After the first five  
26 automatic external defibrillator units are acquired, for each  
27 additional five automatic external defibrillator units acquired, a  
28 minimum of one employee shall be trained beginning with the first  
29 additional automatic external defibrillator unit acquired. Acquirers  
30 of automatic external defibrillator units shall have trained  
31 employees who should be available to respond to an emergency  
32 that may involve the use of an automatic external defibrillator unit  
33 during ~~normal~~ *staffed* operating hours. Acquirers of automatic  
34 external defibrillator units may need to train additional employees  
35 to ~~assure~~ *ensure* that a trained employee is available at all times.

36 (E) There is a written plan that exists that describes the  
37 procedures to be followed in the event of an emergency that may  
38 involve the use of an automatic external defibrillator, to ensure  
39 compliance with the requirements of this section. The written plan  
40 shall include, but not be limited to, immediate notification of 911

1 and trained office personnel at the start of automatic external  
2 defibrillator procedures.

3 (f) Subdivisions (b), (c), and (d) do not apply in the case of  
4 personal injury or wrongful death that results from gross negligence  
5 or willful or wanton misconduct on the part of the person who  
6 uses, attempts to use, or maliciously fails to use an automatic  
7 external defibrillator to render emergency care or treatment.

8 (g) *A health studio that allows its members access to its facilities*  
9 *during operating hours when employees trained in the use of*  
10 *automatic external defibrillators are not on the facility premises,*  
11 *waives the provisions of subdivision (d) and the affirmative defense*  
12 *of primary assumption of the risk, whether express or implied, as*  
13 *to a claim arising out of the absence of trained staff.*

14 ~~(g)~~

15 (h) For purposes of this section, “health studio” means ~~any~~ *a*  
16 facility permitting the use of its facilities and equipment or access  
17 to its facilities and equipment, to individuals or groups for physical  
18 exercise, body building, reducing, figure development, fitness  
19 training, or any other similar purpose, on a membership basis.  
20 “Health studio” does not include ~~any~~ *a* hotel or similar business  
21 that offers fitness facilities to its registered guests for a fee or as  
22 part of the hotel charges.

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25 **All matter omitted in this version of the bill**  
26 **appears in the bill as amended in the**  
27 **Senate, May 20, 2009. (JR11)**  
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